SUPREME COURT, U. S.

JAN 2 1970

JOHN F. DAVIS, CLERK

Number 513

IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

In the Matter

of

DAN A. SPENCER

On Appeal from the First Judicial
District Court, Caddo Parish, Louisiana

RESPONSE OF TRIAL JUDGE; MOTION TO DISMISS OR ALTERNATIVELY AFFIRM

JACK P. F. GREMILLION
Attorney General of the
State of Louisiana,

Attorney for the Honorable
R. B. Williams, Judge,
Respondent

MID-SOUTH PRESS, INC. - SHREVEPORT, LOUISIANA

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DAN A. SPENCER.

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TO THE HONORABLE CHIEF JUSTICE AND HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES

Now into court, through counsel, comes respondent, R. B. Williams, Judge of the Tenth Judicial District Court of the State of Louisiana (on hearing below, ex-officio Judge of the First Judicial District Court of the State of Louisiana), who moves:

I.

The appeal of Dan A. Spencer should be dismissed for the following reasons:

A. Appellant has failed to docket the proper record of this case below before this Honorable Court as required by Rule 13 of the Rules of the Supreme Court of the United States.

B. The record filed by appellant consists of only an application for writ of certiorari, with supporting documents, filed by appellant to the Supreme Court of the State of Louisiana; the documents supporting this application did not include the record of the trial court; the Supreme Court of the State of Louisiana denied appellant's application for writs and therefore had no occasion to order the record from the trial court.

C. This trial court record, being the "record" contemplated by Rule 12 of this Honorable Court, is lodged and has remained with the First Judicial District Court for Caddo Parish, Louisiana; this record has not been filed by appellant.

D. In order for this Honorable Court to adjudicate the issue of probable jurisdiction or any other issue, appellant should have afforded this Court the opportunity to examine the entire record.

II

Alternatively, appellee shows that this Court ought to be summarily affirmed under Rule 16 of this Honorable Court for the following reasons:

A. Appellant's response to the contempt rule filed by appellant on hearing of the contempt rule in the First Judicial District Court for Caddo Parish, Louisiana, raised no substantial constitutional question.

B. Appellant's notice of appeal filed before this Court and appellant's jurisdictional statement raise no substantial questions concerning the interpretation of the Constitution of the United States warranting the assumption of jurisdiction by this Honorable Court.

C. After appellant was cited for contempt by a judge for the First Judicial District Court for Caddo Parish, Louisiana, appellant instituted injunctive proceedings entitled "Jerome A. Brown et al v. Jerome the United States District Court for the Western District of Louisiana, in which proceedings appellant raised the issues now sought to be adjudicated by this Honorable Court.

D. A three judge court was convened at appellant's request. The three judge court concluded that appellant raised no substantial constitutional questions, and dismissed itself.

E. Thereafter, the United States District Court granted defendant summary judgment and dismissed appellant's actions. That court passed on all issues now raised by appellant in his jurisdictional statement. The opinion is reported at [illegible] Federal Supplement, [illegible] Appeals.

F. Appellant failed to timely file notice of appeal from that proceeding to the Fifth Circuit Court of Appeals. Subsequently, appellant voluntarily moved to dismiss his

appeal; he acquiesced thereby in the judgment of the United States District Court for the Western District of Louisiana, which decided adversely to him all issues now urged to this Court.

WHEREFORE, appellee prays that this appeal be dismissed or, alternatively, affirmed without further proceedings.

Signed: JACK P. F. GREMILLION

JACK P. F. GREMILLION,
Attorney General of the
State of Louisiana

Of Counsel for
Honorable R. B. Williams,
Judge of the
Tenth Judicial District Court
of the State of Louisiana,
Appellee

CERTIFICATE OF SERVICE

I, Jack P. F. Gremillion, a member of the Bar of the Supreme Court of the United States, attorney for the Honorable Richard B. Williams, respondent, certify that copies of the foregoing motion have been served on Mr. Dan A. Sportsman, appellant, by mail addressed to him at Post Office Box 1251, Louisiana State University Station, Baton Rouge, Louisiana 70803, postage prepaid this [illegible] day of December, 1969.

Signed: Jack P. F. Gremillion

Jack P. F. Gremillion
Of Counsel